

FRANKFORT/FRANKLIN COUNTY  
PLANNING COMMISSION

JULY 13, 2006  
5:30 PM.

CHAIRMAN DARRELL SANDERSON, PRESIDING

Chairman Sanderson called the meeting to order. Recording Secretary Dawn McDonald called the roll.

Members Present: Patti Cross  
David Garnett  
Charles Booe  
Dwayne Cook  
Keith Lee  
Joel Schrader  
Sherron Jackson  
Annie Metcalf  
Darrell Sanderson (9)

Members Absent: Bob Mason  
Charles Stewart (2)

There being quorum, the meeting proceeded.

The first item of business was approval of the minutes of the meeting of June 8, 2006 meeting. Mr. Garnett said there were a few corrections 1. page 3 second paragraph the 8<sup>th</sup> line down, forest main should be force main and 2. page 5 when talking about Mr. Davenports request, Mr. Garnett asked Ms. Sewell if the property was within the current urban boundaries and Ms. Sewell replied yes, he felt like that should have been mentioned in the minutes. Mr. Booe requested the following changes to the June 8, 2006 meeting minutes, 1. page 3 fifth line down forest main should be force main then 2 pages over in first paragraph it should have said forty percent open space and 3. on the last page, second to last sentence, the decision was not unanimous, because Mr. Booe did not vote in favor A motion was made by Mr. Lee to approve the minutes with the corrections noted. The motion was seconded by Mr. Cross and carried unanimously.

A motion was made by Mr. Garnett to approve the following bills for payment, including addendums;

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| Edwin Logan – May (PC/BZA)                        | \$ 900.00 |
| Dawn McDonald – PC Secretarial (6/8/06)           | 375.00    |
| Anna Carpenter – Secretarial BZA (7/6/06)         | 50.00     |
| American Consulting Engineers (Berry Hill Villas) | 5,196.40  |
| Sharp Supply Co – Office Supplies                 | 350.00    |

The motion was seconded by Mr. Lee and carried unanimously.

There were no Reports of Officers or Reports of Standing Committees. Under Staff Items Ms. Sewell stated that item number 5 under new business has been tabled to the August meeting. Mr. Hewitt stated that item number 3 under new business has been removed by staff.



The first item of business was a continuation of a public hearing: C. Michael Davenport, Inc. is requesting approval of a zone map amendment from rural residential (RR) to Planned Mixed (PM) for an approximate 19 acre parcel of property on the east side of Cardwell Lane and bordered by I-64 to the north.

A motion was made by Mr. Garnett to remove the item from the table. The motion was seconded by Mr. Cook and carried unanimously with Mr. Jackson, Mr. Schrader abstaining from the vote because they were not present at the original meeting. All were in favor of adopting the summary. Mr. Sanderson opened the forum for finding of facts. Mr. Lee made a motion to recommend finding of fact number 1 under staff recommendations which reads the requested planned mix zone map amendment is in agreement with the future land use plan designations of suburban residential neighborhood and suburban business center designations. The motion was seconded by Mr. Cook and carried unanimously. Mr. Lee made a motion to recommend finding of fact number 4 that the comprehensive plan encourages new development to be located near where public services are available and will be able to handle additional development. The motion was seconded by Mr. Cook and carried unanimously. Ms. Metcalf offered a finding of fact that the development of the subject property according to the provided traffic study will reduce the level of service of Cardwell Lane. The motion was seconded by Mr. Garnett and carried with Ms. Metcalf, Mr. Booe, Mr. Garnett and Mr. Sanderson voting in favor. Mr. Booe offered a finding of fact on page 6 of the staff report the requested zone map amendment is now in agreement with the comprehensive plan future land use plan. The motion was seconded by Mr. Lee and carried unanimously. Ms. Metcalfe offered a finding of fact that the policy of the comprehensive plan is to promote a safety efficient transportation system thru access management, required roadway connectivity, traffic system management and development of impact analysis. The provided traffic study indicates that the existing level of service of Cardwell Lane and C. Michael Davenport Blvd with the proposed development will reduce the level of service in the area. The motion was seconded and failed with Ms. Metcalf, Mr. Garnett and Mr. Sanderson voting in favor. Mr. Garnett offered a finding of fact that according to staff the change is in agreement with the map of the comprehensive plan but not the text of the comprehensive plan. The motion was seconded by Ms. Metcalfe and carried with Mr. Cook, Ms. Metcalf, Mr. Booe, Ms. Cross, Mr. Garnett and Mr. Sanderson voting in favor. Mr. Garnett offered finding of fact that the property is within the current urban boundaries. The motion was seconded by Mr. Lee and carried unanimously. Mr. Booe offered a finding of fact that all public utilities are available on the property. The motion was seconded by Mr. Lee and carried unanimously. Mr. Booe offered finding of fact that there is an industrial zone within approximately 100 yards of this property. The motion was seconded by Mr. Lee and carried with Mr. Cook, Mr. Booe, Ms. Cross, Mr. Lee, and Mr. Sanderson voting in favor. Mr. Cook made a motion that findings of fact cease. The motion was seconded by Ms. Cross and carried unanimously. Mr. Lee made a motion to recommend to Fiscal Court based on the findings of fact 1,2,4,7,8 and 9 that the request by Mr. Davenport for a zone map amendment from Rural Residential(RR) to Planned Mixed (PM) for a 19 acre parcel on the east side of Cardwell Lane and bordered by I-64 to the north be approved. The motion was seconded by Mr. Booe and carried with Mr. Cook, Mr. Booe, Ms. Cross, Mr. Lee, and Mr. Sanderson voting in favor.

The next item of business was a request from Hinton/McGraw Builders and Developers for approval of an amended Development Plan/Landscape Plan for the construction of 115 residential patio homes, known as The Villas at Berry Hill, on the 45.84 acre property located at 1007 Leawood Drive.



Attorney Charlie Jones began his case with an apology. He stated that they came to the Planning Commission and got approval for this development, with certain trees marked for preservation, however 9 of those trees have been removed and it was an egregious violation. He stated the developer provided a sub-contracted excavator with the utility plan, which had utility easements crisscrossing the entire area where those nine trees were. They were given the utility plan and not the landscape plan, and therefore didn't know there was a conflict. He admitted that the subcontractor should have been provided with both plans, however they weren't. Mr. Jones went on to say that his client understands the severity and implications of what occurred and they were here tonight in hopes of correcting the situation and getting the stop work order lifted. He proposed planting twenty 4 inch diameter trees, costing \$600 each, or \$12,000 total; plus setting up a \$10,000 escrow account for the city arborist to use for tree plantings in community projects. He requested that they work with staff the city arborist to field locate the trees at a later date in the development because it is hard to field locate them at this time. As far as type they believe the trees destroyed were mainly oak and propose planting oaks of some type. During discussion Mr. Garnett asked the approximate size of the trees that were cut down. Mr. Jones responded they had an approximate 31 inch diameter. Mr. Garnett expressed that 279 inches worth of trees were destroyed and he didn't think that replacing them with only 80 inches was adequate. He wanted them to propose something that puts the community closer to where it was before the trees were destroyed. Mr. Jones replied that is was an honest mistake, he admitted that they should have come back to the planning commission but looking back now he believes they should never have marked those trees for preservation because of the utility easements location being detriment to the trees. As part of the original development plan they intend to plant 270 2 inch trees and he believed the addition of many more trees would be more difficult to locate. He believed that what the developer was proposing was fair and didn't think they should be penalized additionally. He explained that out of 4000 to 5000 trees on the property only 9 were destroyed. Mr. Logan stated that this is not a penalty but that according to KRS 100.337, the commission has the right seek appropriate relief for any violation under the statue of the regulation. Mr. Logan said he didn't believe the developer had the authority to move forward with the development until it's revised or there is some sort of approval. He stated that the commission needed to decide was what would be amended on this plan to make is as satisfactory to them as the original. Mr. Jones responded by stating that he suspected the development would have been approved had they not shown those 9 trees to be protected, he did believe those trees were part of the approval but more importantly was the overall package of what they presented the 14 acres of protection, the interior protection, and the buffer along Browns Ferry, he didn't think the approval hinged on 2 or 9 trees but the package, he is submitting a new development plan that would put them back in the same position. Mr. Jackson asked if the utility company requested the removal of the trees. Mr. Jones said to his knowledge no. Mr. Jackson asked how they came to cut down those trees. Mr. Jones replied that the trees were in the utility easement and the crew on site did not know that those trees were marked for preservation. He explained that those trees would probably suffer as a result of the sewers. Mr. Jackson said it boggled his mind that they were requesting 80 inches of trees to replace 279 inches because they were offering less than 50% of what was lost and agreed the he would like to hear a better proposal. Mr. Jones replied that he obviously viewed the overall development differently than the commission, you are looking at a specific tree-by-tree basis and I look at it as a package. He didn't discount the aesthetic value of nine trees, but had those nine tree not been there in the first place, the development still would have a high-quality development with the preservation of numerous trees. Mr. Jackson said that the developer made and offer, obtained approval and broke a contract, creating a different development. He said the



community deserved better than 50%. Mr. Cook asked some questions trying to figure out where the mistake happened, and he said that had it all gone appropriately at least 8 of the 9 trees would be removed anyway. Mr. Sanderson said yes but they would have asked for compensation of those trees, and Mr. Cook agreed.

Chairman Sanderson asked anyone wishing to speak for or against this item to sign in.

## RECESS

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Ken Jordan, 213 Bellewood Court stated he wasn't here to speak for or against the development, his concerns were for the noise this development would receive from being in the landing path for the Frankfort Airport. Jim Ashcraft stated he was in favor of the development and he plans to purchase one of these homes. He regrets the loss of the trees but he still believes it will be one of Frankfort's finer developments. Richard Crane stated that he also plans to purchase a home there and he believes that what the developer is proposing is sufficient because the trees will eventually grow into large trees. Ed Wright, 210 Mallard Drive stated that he is getting older and interested in downsizing. He said he saw this same style development in Shelbyville and believes this development will be good for Franklin County. Rodney Whitaker, representing the Browns Ferry Neighborhood stated the group didn't oppose the project as long as their concerns were heard. Their concerns were for the area where Leawood and Browns Ferry meet and relating to traffic. Paula Weglarz, was here to speak against the development and the loss of these trees. She said she works on the property and has studied the family, reading journals and she knows how much they loved those trees, going on to say that she was devastated the day she went home and saw those trees were destroyed. She doesn't believe that 20 trees and \$10,000 is enough consideration for 75 years worth of trees and the heritage of Juniper Hill.

Robert Hewitt, Planning Supervisor for the City of Frankfort presented the staff report. He said he prepared the staff report and it basically provides a history of what has occurred since the approval of the development plan as well as the review criteria of articles 5 & 8 of the zoning ordinance as it relates to development plans. He said he was happy to answer any questions and that Mr. Cammack, the City Arborist was also available for questions. Mr. Hewitt answered some general questions from the commission. Andrew Cammack employed by City Parks and Recreation answered some questions from the commission and said one way of calculating the replacement would be to require 70 4-inch trees, at \$600 each, that would total \$42,000. In another example, he said he talked to a certified consulting arborist who used the Council on Tree and Landscape Appraisers formula and it valued a 30 inch red oak tree at \$40,000. But he said that he didn't believe that formula was generally used in situations like this. Mr. Garnett said that the developer has proposed to set up an escrow account to be used by the City Arborist and he asked how those funds could be used. Mr. Cammack said the best use for it would be to replace the trees that are removed or dying in the community. He said the city currently does not have a fund for that. Ms. Cross asked what's the largest diameter tree that could be planted and be viable. Mr. Cammack said that a 25 inch tree could be planted but that a 4 inch tree will grow better. There was discussion of tabling the item but the commission preferred to make a decision tonight. Mr. Jones spoke again and made a new offer of planting \$12,000 worth of trees in the development, the location and type to be determined at a later date by staff and the city arborist, then place \$30,000 in an escrow account to be used by the city for trees and landscape in the community. After more discussion, Mr. Lee made a motion to approve the



amended development plan incorporating the terms offered by the developer including \$42,000 total in an escrow account \$12,000 to be used on site and \$30,000 to be used off site by the city arborist. The motion was seconded by Mr. Garnett and carried with Mr. Jackson, Mr. Cook, Ms. Metcalf, Mr. Booe, Ms. Cross, Mr. Lee, Mr. Garnett and Mr. Sanderson voting in favor.

## RECESS

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The next item of business was a request from P&S Investments, LLC for approval of an amended development plan to allow construction of a 4,037 square foot bank/credit union and a 3,967 square foot convenient store on the property identified as 108 Sea Hero Road and approval of a development plan to allow the construction of a 9,116 square foot professional office building on the property identified as 106 Sea Hero Road.

Since the applicant met all the requirements and staff agreed and there were no questions, Mr. Jackson made a motion to approve the request for a final development plan at 106 and 108 Sea Hero Road. The motion was seconded by Mr. Lee and carried with Mr. Booe abstaining from the vote and Mr. Jackson, Mr. Cook, Ms. Metcalf, Ms. Cross, Mr. Lee, Mr. Schrader, Mr. Garnett and Mr. Sanderson voting in favor.

The next item of business was a request from East Frankfort Baptist Church for a modification to Section 3.03.02 subsection C #1 to allow a dedication of street right-of-way along Pulliam Drive on only a portion of the property located at 457 Versailles Road.

Brian Lindroth with the design team for East Frankfort Baptist Church stated that they were requesting the 10 foot right of way be reduced to an 8 foot right of way because the existing building is only 8 foot away.

Robert Hewitt with the City of Frankfort presented the staff report and explained to the committee that the changes to the building are not causing the right-of-way issue, and the existing building without any changes is only 8 feet away. If this request is not approved the church will not be able to move forward. Ms. Metcalf made a motion to approve the modification. The motion was seconded by Ms. Cross and carried unanimously. Mr. Cook made a motion to adjourn. The motion was seconded by Mr. Jackson and carried unanimously.

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Chairman

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Recording Secretary